

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

DAVID MACK

v.

PALISADES COLLECTION, LLC, ET AL.

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Case No. 4:11cv343
(Judge Schneider/Judge Mazzant)

REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Pending before the Court is Plaintiff's Motion to Quash Answer and Affirmative Defenses of Defendant Palisades Collection, LLC (Dkt. #20). Having considered the motion, and the response thereto, the Court finds that the motion should be denied.

On June 10, 2011, Plaintiff, *pro se*, filed his Original Complaint alleging violations of the Fair Debt Collection Practices Act. On June 13, 2011, Plaintiff filed his Amended Complaint. On July 21, 2011, Defendant filed its Answer and Affirmative Defenses (Dkt. #13). On August 10, 2011, Plaintiff filed this Motion to Quash (Dkt. #20). On August 29, 2011, Defendant filed a response (Dkt. #26).

Defendant asserts that the Federal Rules of Civil Procedure provide no basis for a motion to quash an answer. The Court agrees. Plaintiff does not cite any authority that would permit a motion to quash an answer. Moreover, Plaintiff failed to take steps under Federal Rule of Civil Procedure 55 to properly secure a default judgment. Finding no basis for the relief requested, the motion should be denied.

RECOMMENDATION

It is recommended that Plaintiff's Motion to Quash Answer and Affirmative Defenses of Defendant Palisades Collection, LLC (Dkt. #20) should be DENIED.

Within fourteen (14) days after service of the magistrate judge's report, any party may serve and file written objections to the findings and recommendations of the magistrate judge. 28 U.S.C. § 636(b)(1)(C).

Failure to file written objections to the proposed findings and recommendations contained in this report within fourteen days after service shall bar an aggrieved party from *de novo* review by the district court of the proposed findings and recommendations and from appellate review of factual findings accepted or adopted by the district court except on grounds of plain error or manifest injustice. *Thomas v. Arn*, 474 U.S. 140, 148 (1985); *Rodriguez v. Bowen*, 857 F.2d 275, 276-77 (5th Cir. 1988).

SIGNED this 30th day of August, 2011.



AMOS L. MAZZANT
UNITED STATES MAGISTRATE JUDGE